IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 369 of 2006
Date of decision : 5.2.2007

Shri Harbans Lal Khullar

.....Petitioner.

Versus

Harbhajan Singh & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.B.R. Mahajan,Advocate
for the petitioner.

Mr. V.K. Sandhir, Advocate
for the respondents.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 12.1.2006 passed by the learned Rent Controller, Amritsar vide which application filed by the petitioner for leading additional evidence by way of production of original Power of Attorney has been declined.

The learned Court below has taken note of the fact that prior to filing of the present application the petitioner filed an application under Section 65 of the Indian Evidence Act for leading secondary evidence on the plea that the original power of attorney has since been lost in transit. The said plea of the petitioner was rejected by the learned Court below that the petitioner has failed to prove the loss. It is case of the petitioner, subsequently the original power of attorney has been found and, therefore, the application was moved for leading additional evidence. The learned trial Court took note of the fact that petitioner has taken contrary stand in the

earlier and the subsequent application and, therefore, application could not be allowed especially when an attempt to fill up a lacuna in the case. The learned counsel for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in the case of ***Uday Shankar Triyar Vs. Ram Kalewar Prasad Singh & Anr. 2006(1)Civil Court Cases 416 (SC)*** to contend that procedural defects and irregularities should be allowed to be corrected in the interest of justice. The contention of the learned counsel for the petitioner is that in the present case the photocopies of power of attorneys had already been placed and the application for leading additional evidence by production of original power of attorney was merely to correct a procedural errors.

Be that as it may, the filing of power of attorney was necessary to maintain the petition on behalf of other petitioners and failure to do so would only be considered procedural error.

In view of the law laid down by the Hon'ble Supreme Court in the case ***Uday Shankar Triyar Vs. Ram Kalewar Prasad Singh & Anr*** (Supra) the impugned order is not sustainable, which is accordingly set aside and the application moved by the petitioner for leading additional evidence is allowed.

5.2.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**